

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

Plaintiffs,

-against-

HUAWEI TECHNOLOGIES CO., LTD., ET
AL,

Defendants.

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POLLAK, Chief United States Magistrate Judge:

ORDER

18 CR 457 (S-3) (AMD) (CLP)

Upon consideration of the motion of the United States of America, filed under seal, for an Order to close the courtroom during the status conference scheduled for September 9, 2021 at 3:45 p.m. in the above-captioned matter, and for other relief as specified in the motion; and

Having scheduled a public hearing on the motion and notified the public of the hearing by listing the date, time, and location of the hearing on the Court's public calendar; and

Having held a public hearing on the motion at which the parties and any intervenors were provided an opportunity to be heard; and

Having considered the arguments of and based on the submissions of the parties, the Court makes the following findings:

1. There is a substantial probability that a public proceeding would result in the public disclosure of certain discovery material, which has been provided to the defendant only pursuant to a protective order, and prejudice the government's compelling interest in avoiding possible efforts to obstruct its prosecution.

2. There are no reasonable alternatives to closure of the courtroom that can adequately protect the compelling interests that would be prejudiced by a public proceeding; and

3. The probable prejudice to these compelling interests overrides the public's and media's qualified First Amendment right to access the proceedings, particularly in light of the limitations placed on the closure as set forth below.

Accordingly, pursuant to United States v. Alcantara, 396 F.3d 189 (2d Cir. 2005) and United States v. Doe, 63 F.3d 121 (2d Cir. 1995),

IT IS ORDERED that the motion to close the courtroom during the hearing in this matter on September 9, 2021, is granted.

IT IS FURTHER ORDERED that the government's motion to seal the transcript of the September 9, 2021 proceedings is granted.

IT IS FURTHER ORDERED that the closure of the courtroom be tailored by requiring the parties to review the transcript of the proceedings and, within 10 days of the production of the transcript, propose redactions limited to those necessary to protect sensitive, non-public information from disclosure, or show cause why redactions would not suffice to protect the compelling interests identified above.

IT IS FURTHER ORDERED that this Court provisionally grants the government's request to file its letter motion to close the courtroom under seal, including any additional documents submitted in connection with the motion, and the government's proposed order. The government is FURTHER ORDERED to provide an explanation as to why the initial letter seeking closure should be filed under seal. Such explanation shall be filed with the Court within five (5) days of this Order; and

IT IS FURTHER ORDERED that the docket in this case immediately be amended to reflect the occurrence of the hearing on the motion to close the courtroom, the disposition of the motion, and the fact of courtroom closure.

SO ORDERED.

Dated: Brooklyn, New York
September 9, 2021

/s/ Cheryl L. Pollak

Cheryl L. Pollak
Chief United States Magistrate Judge
Eastern District of New York